

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 91-CV-81110

vs.

HON. GEORGE CARAM STEEH

LAWRENCE OZEL LITTLE,

Defendant.

_____ /

ORDER DENYING DEFENDANT'S MOTION FOR WRIT OF ADUIT (SIC) QUERELA
OR FOR AN ORDER PURSUANT TO RULE 52(B) (DOCUMENT # 116)

On February 10, 2006, defendant Lawrence Ozel Little filed a *pro se* motion entitled "Motion for Writ of Aduit (sic) Querela or for an Order Pursuant to Rule 52(b) FrCrP Declaring the Judgment of Conviction and Sentence Void..." This motion is a collateral attack on the judgment of sentence imposed in defendant Little's case, which was entered in October 1992. It appears that defendant has served the government with a copy of this motion.

Relying on Blakely v. Washington, 542 U.S. 296 (2004) and U.S. v. Booker, 125 S.Ct. 738 (2005), defendant asserts that his sentence violates his rights under the Sixth Amendment, because following his jury conviction certain findings of fact made by a judge, rather than a jury, increased his sentence. However, the Sixth Circuit has held, explicitly, that the procedural rules of Blakely and Booker do not apply retroactively.

See Humphress v. United States, 398 F.3d 855, 860-63 (6th Cir. 2005). Defendant's motion is, accordingly, without merit and is hereby DENIED.

IT IS SO ORDERED.

S/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: February 23, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on February 23, 2006, by electronic and/or ordinary mail.

S/Josephine Chaffee
Secretary/Deputy Clerk